

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Troy Luke Burks, # 160726	)	
	)	C.A. No. 3:02-4014-HMH
Plaintiff,	)	
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
John R. Pate, Acting Warden;	)	
Betty E. Albritton, Disciplinary Hearing	)	
Officer; and P. Felder, Unit Sergeant,	)	
South Carolina Department of Corrections,	)	
	)	
Defendants.	)	

This matter is before the court on a motion by Troy Luke Burks (“Burks”) for “a temporary restraining order and preliminary injunction and/or memorandum against the [prison officials] to prevent and stop its unlawful interference with [his] mail[,] a violation of inmates [sic] right to access to court.” (Mot. TRO 1.) On May 17, 2005, Burks filed a motion before this court in which he requested that the court enjoin the prison officials where Burks is incarcerated from denying him access to the courts. At the hearing held on July 25, 2005, Burks argued that prison officials were denying him access to the courts and claimed that they prevented him from exhausting his administrative remedies by not providing him with legal writing materials. (Hr’g Tr. 45, 47, 49, 53.) On August 5, 2005, the court denied Burks’ motion and granted Defendants’ motion for summary judgment. Burks appealed, and the case is currently pending before the United States Court of Appeals for the Fourth Circuit.

On November 2, 2005, Burks filed the instant motion, in which he suggests that prison officials continue to deny him access to the courts through the ways in which they are

handling his mail, alleging that they are denying his access “as a means of retaliation against [him] for initiating the [instant action].” (Id.) Because Burks’ case is pending before the Fourth Circuit, this court lacks jurisdiction to consider his motion. See Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) (finding that an appeal divests the trial court of jurisdiction “over those aspects of the case involved in the appeal.”). As such, Burks cannot pursue the instant motion in this court, and his motion is dismissed.

**IT IS SO ORDERED.**

s/ Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
November 21, 2005

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.